

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

JESSE NIETO, JR.,

Plaintiff,

v.

CALIBER HOME LOANS, INC., *et al.*,

Defendants.

Case No. 2:20-cv-00422-JAM-JDP (PS)

ORDER DISCHARGING ORDER TO SHOW  
CAUSE AND GRANTING DEFENDANTS'  
REQUEST FOR JUDICIAL NOTICE

ECF Nos. 36, 39

The court ordered defendants to show cause why this case should not be dismissed for lack of jurisdiction because there is not complete diversity between the parties. ECF No. 36. Both plaintiff and defendant MTC Financial, Inc. are citizens of California. Defendants argue that MTC is a nominal party and as such should not be considered in evaluating diversity jurisdiction. Plaintiff has not opposed defendants' briefing or MTC's status as a nominal party.

This court's jurisdiction is based upon diversity of citizenship. 28 U.S.C. § 1332. However, the court "will ignore the citizenship of nominal or formal parties who have no interest in the action and are merely joined to perform the ministerial act of conveying the title if adjudged to the complainant." *Prudential Real Estate Affiliates, Inc. v. PPR Realty, Inc.*, 204 F.3d 867, 873 (9th Cir. 2000) (internal citations and quotation marks omitted).

1 Here, MTC is a foreclosure trustee. In the state court proceedings that predated the notice  
2 of removal to this court, MTC filed a declaration<sup>1</sup> under California Civil Code section 2924l,  
3 stating that it reasonably believed that it was being sued only as a trustee and not for any acts or  
4 omissions alleged in the complaint. Plaintiff did not object to MTC's declaration within 15 days,  
5 rendering MTC a nominal party with no liability for damages under state law. Cal. Civ. Code  
6 § 2924l(d).

7 "Where no objections have been made, courts have treated the trustee as a nominal party  
8 and disregarded its citizenship for diversity purposes on removal." *Singer v. Aurora Loan Servs.*  
9 *LLC*, No. 1:09-cv-01598-LJO-DLB, 2010 U.S. Dist. LEXIS 143564, at \*12 (E.D. Cal. Feb. 8,  
10 2010); *see also Hafiz v. Greenpoint Mortg. Funding*, 652 F. Supp. 2d 1050, 1052 (N.D. Cal.  
11 2009) (recognizing the nominal party status of a trustee that followed the process under section  
12 2924l), *aff'd*, 409 F. App'x 70 (9th Cir. 2010). I conclude that MTC should be considered a  
13 nominal party because it followed and completed the process under section 2924l before this case  
14 was removed to federal court, and plaintiff has not objected in either forum to the status of MTC  
15 as a nominal party with no liability for damages under state law.

16 Accordingly:

- 17 1. The court's order to show cause, ECF No. 36, is discharged.  
18 2. Defendants' request for judicial notice, ECF No. 39, is granted.

19  
20 IT IS SO ORDERED.

21 Dated: August 26, 2021

22   
23 JEREMY D. PETERSON  
24 UNITED STATES MAGISTRATE JUDGE  
25

26  
27 <sup>1</sup> Defendants ask the court to take judicial notice of MTC's declaration that was filed in  
28 state superior court. ECF No. 39. As this public record filing is not reasonably subject to dispute,  
defendants' request is granted, and the court will consider this document for the purposes of  
evaluating jurisdiction. *See* Fed. R. Evid. 201.